

November 18, 2008

To: George Corn  
Ravalli County Attorney  
Ravalli County Courthouse  
205 Bedford, Suite C  
Hamilton, MT 59840

✓ Ravalli County Commissioners  
Ravalli County Administrative Building  
215 4<sup>th</sup> street  
Hamilton, MT 59840

John Lynch, Director  
Montana Department of Transportation  
P. O. Box 201001  
Helena, MT 59620-1001

Mike McGrath  
Montana Attorney General  
Department of Justice  
P. O. Box 201401  
Helena, MT 59620-1401

**RECEIVED**

DEC 05 2008

Ravalli County Commissioners

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**Re: 31 Bell Crossing, Stevensville, Montana**  
**Demand to Abate Continuing Nuisance, and**

# **Demand to Mediate Damages, and Demand to Remove Illegal River Bank Rip-rap, and Notice of Intent to Sue**

Gentlemen:

Ravalli county and The State of Montana have allowed a continuing nuisance (i.e. the Bell Crossing bridge) to persist and the resulting modified river flow has destroyed more than 30% of Renascent, Inc.'s prime agricultural property, is continuing to destroy more and is threatening a home and septic system on the property. The river ultimately will cause the destruction of at least 16 homes, a state road and possibly the Bell Crossing bridge (see attachment D) if the nuisance not immediately mitigated.

The following is the history of this issue;

1. Ravalli County had a bridge designed and built over the Bitterroot River at Bell Crossing in Stevensville.
2. The bridge was not designed to carry the sediment flow in the river, it is too narrow.
3. Ravalli County, after it was determined by engineering studies that there was a serious problem with the bridge and after having been approved for a study grant by FEMA, turned the bridge over to the Montana Department of Transportation in the year 2000.
4. Ever since the bridge was installed a gravel island has been forming at the mouth of the bridge (See attachment A, B and C showing the original bridge, the current bridge when built and the bridge now). This island is now approximately 10 acres in size and has blocked the mouth of the bridge. This has caused the river to migrate to the West where it has been destroying the property owned by Renascent, Inc., resulting of a loss of 30% of our agriculture assessed land. In addition, a gravel bar has formed underneath the bridge closing off two thirds of the water channel. This is causing a slow down and backup of water enhancing the deposit of gravel. The State is becoming unduly enriched at our expense as the gravel island under the bridge is adding to the size of the fishing access, east of the Bell Crossing Bridge, owned by the State. The migration of the river to the west will result in the breaching of the roadway to the West of the bridge and the river will then move into a ditch which connects to Big Creek. When this happens, there will be many homes destroyed. The Department of Transportation has ensured that the river will migrate to the West by burying rip-rap along the South-West side of Bell Crossing road. When the river reaches the rip-rap it will be deflected to the West. Additionally the Department of Transportation has rip-rapped part of Renascent, Inc.'s river bank illegally, adding to the erosion problem. These attempts to save the bridge which causes other problems is gross negligence on the part of the Department of Transportation.

5. Work illegally done in the river by Dave Bush in 2000, generated a significant amount of sediment that overloaded the carrying capacity of river and significantly contributed to the growth of the gravel bar.
6. The Department of Transportation has recently caused the situation to worsen by adding scour pads underneath the bridge to "fix" a potential problem of the footing washing out. This addition has stopped the river channel from becoming deeper, again reducing the sediment carrying capacity of the water channel.
7. The State of Montana owns the water which is destroying our property and the bridge which is causing the problem, resulting in a "taking" of our property. In addition, the rivers high water mark is forced to widen, again "taking" more of our property. All of this is not a naturally occurring action.
8. This problem has been documented to Ravalli County, the State, the Army Corps. Of Engineers and FEMA as far back as 1999 and no positive action has been taken.
9. Experts have stated that this problem can be mitigated, before the next high water by digging two channels through the gravel bar in front of the bridge (see attachment C) to allow the river flow to go directly under the bridge as it is supposed to do. This will not cause significant sediment pollution issues if the channels are begun from the upstream side of the island and the channels are properly dressed out. A longer term solution is required and should be addressed before any more damage is done. If this problem persists, there could be damages approaching one hundred million dollars, or more.

This is a demand upon both the State of Montana and Ravalli County to immediately mitigate this nuisance and to fix the longer term problems. If this is not done immediately, we will be forced to file legal actions.

Sincerely,

Dan Floyd

President

Renascent, Inc.

P. O. Box 1240

Victor, MT 59875

406. 360-1285

Cc:

FEMA, Denver office

EPA, Region 8, Denver office

DNRC, Water Resources Division, Helena

Ravalli Conservation District, Hamilton

Montana Fish, Wildlife and Parks, Helena office

Downstream home owners (15)

Ravalli County State Senators and Representatives (Hawk, Liable, Lake, MacLaren, Shockley and Stoker)

Attachments  
included  
w/ exception  
of last large  
picture; which  
is w/ Adm Staff  
Glenda

Attachment "A"  
old Bridge  
1955

20

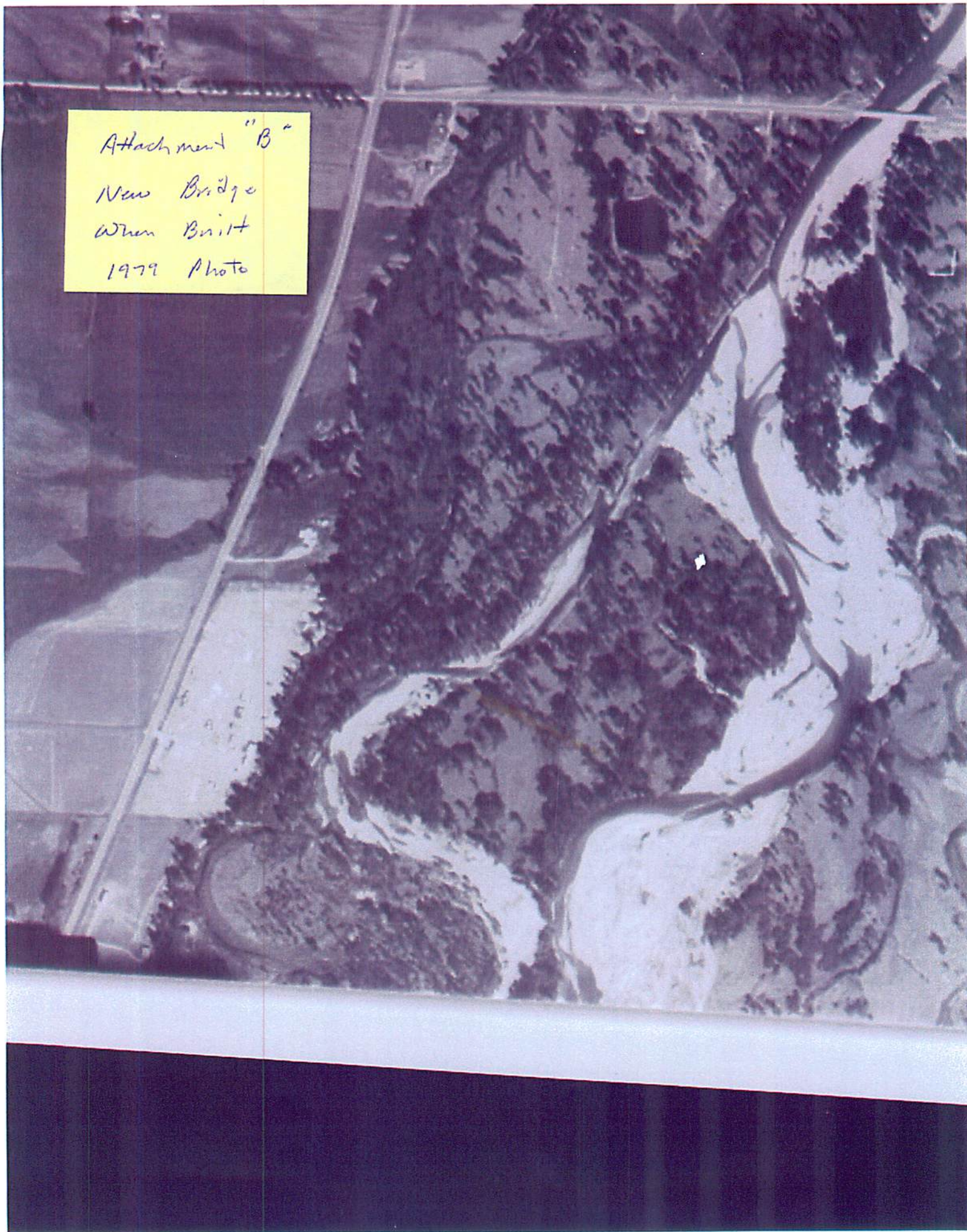


Attachment "B"

New Bridge

When Built

1979 Photo





Attachment "C"  
Bridge now  
2008 Photo

Illegal Rip-rap  
(Bank)  
x Remasand Property Corner  
Fishing Access ↓

Gravel Island ↑  
with Proposed  
Mitigation Channels

North →